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ABSTRACT

In 2001, a decision by the New York State Supreme Court in a landmark school funding case, Campaign for Fiscal Equity (CFE), Inc. v. State of New York, declared the current New York state funding system unconstitutional and ordered the legislature to replace it with a new cost-based system that ensures that every school district has sufficient resources to provide the opportunity for a sound basic education for all students. At the trial, numerous expert witnesses confirmed that providing additional time on task is an essential part of ensuring that at-risk students have the opportunity for a sound basic education. More time on task is one of the strategies identified by the State Education Department and the Board of Regents as necessary to provide an adequate education. This paper reviews some programs that are providing or would provide more time on task for New York City's public school students through programs that offer an expanded platform for learning. Such programs include: (1) Project Read; (2) the Intensive School-Day Program; (3) Success for All; (4) Reading Recovery; (5) prekindergarten programs; (6) after-school programs; and (7) summer school programs. The evidence is clear that at-risk students who participate in intensive programs like these reap benefits, but many New York City students are denied these benefits because their schools lack the resources to provide them. (Contains 57 footnotes.) (SLD)

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CFE

CAMPAIGN FOR FISCAL EQUITY, INC.

In Evidence:

Policy Reports from the CFE Trial

PROVEN PRACTICES:

"MORE TIME ON TASK" BENEFITS

STUDENTS AT RISK

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PREFACE

Just over a year ago, Justice Leland DeGrasse of the New York State Supreme Court handed an important victory to CFE and millions of public school children in New York City and around the state. In his decision in the landmark school-funding case, *Campaign for Fiscal Equity (CFE), Inc. v. State of New York,* Justice DeGrasse declared the current state school funding system unconstitutional, and he ordered the legislature to replace it with a new cost-based system that ensures that every school in the state has sufficient resources to provide the opportunity for a sound basic education to all its students. Governor Pataki's appeal of the decision has temporarily put on hold its important reforms; however, CFE and its allies are working to assure the decision's immediate and effective implementation at the conclusion of the appeals process.

Justice DeGrasse based his historic decision on the expert testimony and extensive research evidence on a wide variety of education issues put forth at trial by CFE and Simpson Thacher and Bartlett, the Manhattan law firm that served as *pro bono* co-counsel in the case. CFE believes these valuable resources should be available to the public—to educators, policymakers, parents, and researchers—to inform future school reform efforts. This series, **In Evidence: Policy Reports from the CFE Trial,** summarizes the probative testimony and research evidence presented at the trial. Each report in the series takes on a different aspect of education reform covered in *CFE v. State.*

This report, **Proven Practices: Investing in "More Time on Task" Benefits At-Risk Students** was compiled by Jessica Wolff, CFE's Director of Policy Development. It summarizes the evidence that supports the proven success of providing additional instructional time to at-risk students. It also documents New York City public schools' consistent inability, because of a lack of funding, of the to provide these valuable practices to the majority of students who need them and would certainly benefit from them, as was recognized by Justice DeGrasse.

Sadly, this situation has worsened since the time period analyzed at the trial. Today even fewer resources are available to the New York City schools for providing more time on task to at-risk students. Recent budget cuts have forced the elimination of after-school programs, weekend programs, and other instructional supports critical to meeting the special needs of so many of our students. To provide at-risk students with the opportunity for a sound basic education that the state constitution guarantees, significant additional funding is required to ensure that all students whose educational needs are not being met, not just the neediest of the needy, can benefit from these proven programs.

Michael A. Rebell
Executive Director and Counsel

In Evidence:

Policy Reports from the CFE Trial

PROVEN PRACTICES:
"MORE TIME ON TASK" BENEFITS
STUDENTS AT RISK

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INTRODUCTION

Hundreds of thousands of New York City's public school children, roughly two-thirds of all its students, have substantial educational needs and, therefore, are considered at risk of academic failure. In his decision in the landmark school funding case, *Campaign for Fiscal Equity (CFE), Inc. v. State of New York*, Justice Leland DeGrasse held that, in order to give these students, and all other at-risk students statewide, the opportunity for a sound basic education, school districts need adequate funding to provide additional educational resources to address their special needs.

A number of strategies and practices have proven effective in affording at-risk students the extra instructional support they need to succeed. One of the major approaches is to provide these students with "more time on task," a strategy that embraces a variety of specific practices and programs intended to offer them either (1) more intensely focused instructional time related to a specific educational need or (2) more in-school time.

Specific practices for providing focused instructional time (which may occur during or outside the regular school day) include small-group or individual instruction in reading, math, and other subjects, summer literacy instruction, and the use of specialized literacy programs such as Success for All and Reading Recovery. Programs for extending the amount of time students spend in school include prekindergarten (which both extend years of school and provide critical preparation for the primary grades), increasing the hours students spend in school each week through after-school and Saturday programs, and comprehensive summer programs.

Programs such as these that provide "more time on task" have proven success. Evidence presented at the CFE trial included the following:

- Students who receive Project Read's intensive literacy program Success for All score about three months higher in the first grade and 1.1 years higher in fifth grade in reading than control groups.
- Students receiving Reading Recovery are selected from the lowest 20 percent of their class, yet the majority achieve or surpass grade level literacy standards within 20 weeks.
- Between 1989 and 1996, 83 percent of all New York students who received the full Reading Recovery program successfully completed it.
- In the 1996-97 school year, 100 percent of the New York City children who received Reading Recovery were reading at or above grade-level at the end of the year.
- Prekindergarten, summer school, and after school programs have significantly improved the achievement of many at-risk students.

Unfortunately, as Justice DeGrasse recognized, the benefits of such programs are not available to the majority of at-risk students in New York City.

- Only one third of the 150,000 eligible New York City students received valuable Project Read literacy support.
- Citywide, less than 20 percent of eligible students participated in the Reading Recovery program.
- Fewer than half of the city's eligible four year olds attend prekindergarten.
- After-school programs are unavailable to the majority of city students.
- The 1999 summer school program served barely more than a quarter of the students who needed it.

Limited resources force New York City schools to ration needed educational services to at-risk students. Likewise, many other underfunded school districts around the state are unable to offer all their at-risk students these invaluable programs. As this report details, evidence and testimony presented at the CFE trial make clear both the need for and documented benefits of programs that provide "more time on task." Unless schools can make these essential programs widely available, hundreds of thousands of at-risk students in New York City and many more statewide will continue to have no practical opportunity to obtain a sound basic education and to meet the Regents standards.

EXPERTS AGREE ON PROVEN BENEFITS OF "MORE TIME ON TASK"

At the trial of *CFE v. State*, numerous expert witnesses confirmed the widespread consensus that providing additional time on task is an essential part of ensuring that at-risk students have the opportunity for a sound basic education. New York State Education Commissioner Richard Mills testified that more time on task is one of the strategies identified by the State Education Department and the Board of Regents as necessary to provide an adequate education to economically disadvantaged students.[1] Former Commissioner Thomas Sobol agreed that time on task was critical.[2] Deputy Commissioner James Kadamus also testified that more time on task, including tutoring, consultant teachers, extended-day, and prekindergarten, is an important way of improving student performance.[3] In "A New Compact for Learning," an education plan adopted in 1991, the Regents specifically recommended that districts increase the amount of quality instructional time by, among other things, extending the school day and providing summer-school programs.[4]

Experts testifying for the State concurred with the need for additional instructional support for at-risk students. Dr. Christine Rossell, a Boston University political science professor, testified that time on task is the single greatest predictor of student achievement.[5] Dr. Herbert Walberg, a University of Chicago education researcher, agreed that after-school programs, Saturday

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[1] Trial testimony, *CFE v. State*, Mills, pp. 1275:9-19.
[2] Trial testimony, *CFE v. State*, Sobol, pp. 1804: 14-19.
[3] Trial testimony, *CFE v. State*, Kadamus, pp. 1623: 9-20.
[4] New York State Education Department, A New Compact for Learning, November 1991, p. 11.
[5] Trial testimony, *CFE v. State*, Rossell, pp. 16905:21-24.

programs, and summer school can all improve learning.[6] Dr. John Murphy, an education consultant and former schools superintendent, confirmed that many students from economically disadvantaged backgrounds need special strategies, including extended time, to achieve success.[7]

In the past, the New York City schools have offered at least some extended-time programs such as after-school classes and summer school. By the 1980s, however, financial pressure forced many of these programs to be eliminated. By the mid-1990s, they were almost entirely absent. As Board of Education budgets increased in recent years, the Board began to restore these essential programs to the extent possible.

In the past few years, the Board has implemented a number of initiatives to provide additional instructional support for students at risk of failing to meet the standards. Together these programs are referred to as the Expanded Platform for Learning. The Expanded Platform for Learning includes Project Read, prekindergarten, after-school programs, and summer school.

Former Deputy Chancellor for Operations Harry Spence testified at trial that the Board was urgently trying to focus additional resources on these Expanded Platform programs.[8] The Board does not believe the normal school day provides sufficient learning opportunity for many city students.[9] It also recognizes that, while providing extra instructional support has always been essential, it is now even more critical because of the implementation of the Regents Learning Standards and the decision to end social promotion.[10]

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[6] Trial testimony, *CFE v. State*, Walberg, pp. 17258:9-17259:22.
[7] Trial testimony, *CFE v. State*, Murphy, pp. 16650:12-16651:9.
[8] Trial testimony, *CFE v. State*, Spence, pp. 2003:25-2004:19.
[9] Trial testimony, *CFE v. State*, Spence, p. 2276: 6-15.
[10] Witness statement of William Casey, *CFE v. State*, p. 5

Expanded Platform programs are now available to some extent in every community school district, but none of these vital programs currently reaches most of the at-risk students who need them. Superintendents are thus forced to employ a triage system whereby only the very most needy students gain admission to these important programs. Moreover, many of the specific Expanded Platform programs are limited to early-grade literacy, even though there is a substantial need for enhanced instructional programs throughout the K-12 grades on a variety of subjects.

Although no single program to address the educational needs of at-risk children may be essential by itself, the range and availability of such programs must be sufficient in total, considered in the context of resources otherwise available in school, to meet the educational needs of at-risk children. If not, hundreds of thousands of children will be condemned to substantial risk of academic failure.

PROJECT READ: A SUCCESSFUL LITERACY SUPPORT PROGRAM NOT AVAILABLE TO ALL WHO NEED IT

One of the most significant and successful efforts to provide more time on task for at-risk students is the Board of Education's Project Read initiative. Project Read is an early-grade program designed to help at-risk students achieve basic literacy skills, but the funds allocated for Project Read are not sufficient to provide this program to all of the students who are at risk of not meeting the state's literacy standards. As a result, superintendents must ration Project Read services, denying tens of thousands of children the enhanced instruction necessary for them to master basic reading comprehension. Moreover, although Project Read is limited to the early grades, a majority of the system's students continue to need intensive literacy instruction well beyond the early grade years.

The literacy needs of students in the New York City public school system are extraordinary. As measured by a variety of tests, at least two-thirds and perhaps as many as three-quarters of these students do not meet the state and Board of Education basic literacy standards.

In 1999, the schools began administering new fourth and eighth grade English language arts (ELA) assessments designed to measure whether students are meeting the state standards. Evidence presented at the CFE trial calculated that, based on the fact that 67 percent of New York City fourth grade public school students scored in Levels 1 and 2 (the two lowest levels) on the spring 1999 statewide ELA exam, approximately 170,084 students in grades 1-3 alone are at risk of not achieving the standards. A similar proportion – 65 percent – of eighth graders failed the 1999 ELA exam.

Project Read, a program targeted to first through third graders, was established in 1997 to provide assistance to students at risk of not becoming literate, with the goal of having all students become independent readers and writers in elementary school. Project Read is comprised of three components: an Intensive School-Day Program, which provides individual or small group instruction to permit teachers to spend more time working with each student; an after-school program, which provides more instructional time; and a family literacy, which helps parents better support their children's education.

Project Read is funded by city tax-levy money. In the school years analyzed at the trial, approximately $125 million in funds were earmarked annually for Project Read programs. This amount was insufficient to provide Project Read to all the at-risk students who needed it to attain literacy.

The Intensive School-Day Program

The Intensive School-Day Program provides focused literacy instruction in a small group setting based on exemplary early-intervention models. Schools may select the model of instruction to be used. Commonly used models include Reading Recovery, the Literacy Enhancement Project, Success for All, and district-designed variations on these programs.

In the years analyzed at trial, over 150,000 students were eligible for these services, but only about a third of that number actually received them. In addition, in some years, the pressures to add needy students to the rolls forced teachers to bear caseloads higher than the 60 students per teacher specified by the Project Read guidelines.

In response to the poor performance of New York City public school fourth-graders on the 1999 ELA exam, superintendents were given discretion in the 1999-2000 school year to extend Project Read services to fourth graders. But funding for Project Read did not increase from prior years. As a result, fourth graders could only be brought into the program by reducing the Project Read services provided to first through third graders. Testimony from various superintendents confirmed the damaging effect of the shortage of Project Read funds on their ability to provide these programs to students who need them.[11]

There is clear evidence that individual Project Read programs have substantially improved student performance. Two specific programs used by some schools as part of the Intensive School Day Program—Success for All and Reading Recovery— provide effective additional literacy instructional support to at-risk students. While Reading Recovery is the more expensive of the programs, it is also the program that achieves the most dramatic results.

Success for All. Research evidence shows that Success for All is effective in providing the increased instructional support at-risk students need, thereby raising the academic performance of underachieving students.

Robert Slavin at Johns Hopkins University developed Success for All. It is a highly structured program focused on basic aspects of literacy instruction such as word recognition. The prescriptive nature of the program can be especially helpful to inexperienced teachers, because it enables them to practice effective literacy instruction while gradually learning the techniques. The program is less useful in schools where teachers have been receiving high quality literacy training. Thus, for example, Success for All is used in the Chancellor's District,

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[11] Trial testimony, *CFE v. State*, DeStefano, pp. 5468:12-5469:9, Zardoya, pp. 7037:6-7039:18, Young, pp. 17834:14-17835:10, Rosa, 11111:12-11113:5.

which has many inexperienced teachers, but it is not used in District 2, where teachers have had more extensive literacy training.

In the Success for All program, children are placed in groups of no more than 18 students and provided the prescribed program for eight weeks, at which point there is an assessment and readjustment of student assignments. The program emphasizes word recognition, cooperative learning, and parental involvement. In addition to the small group instruction, Success for All includes twice a week one-on-one tutoring for 30 percent of first graders, 20 percent of second graders, and 10 percent of third graders. The goal of the program is to enable all students to read at grade level by the end of grade 3. Success for All thus provides significant additional instructional support in the form of smaller class sizes and one-on-one tutoring.

The evidence supports the effectiveness of the Success for All program. In 1999 the Regents stated:

> Results indicate that Success for All significantly improves reading performance, especially for students in the lowest 25 percent of their class. Compared with control groups, Success for All students score about three months higher in the first grade and 1.1 years higher in fifth grade on reading measures. A school's reading performance tends to increase with each successive year of program implementation. Evaluations also indicate positive effects on the achievement of English language learners and students who have been assigned to special education. Retentions and special education placements decline significantly in Success for All schools.[12]

Former Commissioner Sobol testified at the trial that Success for All is one of a number of programs that have shown that virtually all students can achieve high

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[12] Board of Regents Research and Evaluation Subcommittee, Partnerships to Close the Gap in Student Performance Research —Perspectives and Design Issues, December 1998, p. 69.

standards given adequate instructional support.[13] In fact, the State Education Department considers Success for All a model instructional program.[14]

Reading Recovery. Substantial evidence demonstrates that Reading Recovery has achieved remarkable success in significantly improving the literacy skills of even the lowest performing at-risk students. This evidence supports the need for and efficacy of programs for at-risk children. It also provides convincing proof that socioeconomic background need not prevent students from meeting high standards if they receive sufficient attention from experienced, well-trained teachers. Reading Recovery students are selected from the lowest 20 percent of their class, and most are at risk, yet the majority of these students achieve or surpass grade level literacy standards within 20 weeks.

Participating students receive daily one-on-one 30-minute tutoring sessions from Reading Recovery teachers until they either develop self-sustaining capacities for reading and writing, or complete 20 weeks of the program. Students who successfully complete the program are described as having been "successfully discontinued."

To become a Reading Recovery teacher, a teacher must be certified and must have a minimum of three years teaching experience. These requirements are based on the need for assurance that Reading Recovery teachers are qualified professionals who understand effective reading strategies and are familiar with a first-grade reading level. Prospective Reading Recovery teachers participate in a year-long graduate training program and thereafter participate in ongoing Reading Recovery professional development. The extensive professional development is considered necessary to prepare teachers to design effective

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[13] Trial testimony, *CFE v. State*, Sobol, p. 1089: 3-25.
[14] Trial testimony, *CFE v. State*, Santandreu, p. 13706: 7-12.

instruction responsive to the needs and difficulties of the hard-to-teach students that Reading Recovery targets.

Each Reading Recovery teacher works with four to five students per day, for a total teaching time of two to two-and-a-half hours. The rest of the teacher's time is ordinarily spent in regular classroom teaching.

New York University research reports establish Reading Recovery's considerable success both in New York State and in New York City. The reports show the portion of students successfully discontinued as a percentage of both students receiving a full program (defined as 60 or more lessons) and students receiving any number at all of Reading Recovery lessons. The reports for New York State show that between 1989 and 1996, 83 percent of all students who received the full Reading Recovery program were successfully discontinued. This number represented 62 percent of all students who received any number of Reading Recovery lessons.[15]

The most recent research reports for New York City presented at the CFE trial show similarly impressive results. The report for the 1996-97 school year shows that 67 percent of the children who received at least one Reading Recovery lesson were successfully discontinued, and 100 percent of these children were reading at or above grade-level at the end of the year.[16] The report for 1997-98 shows 58 percent of children receiving at least one Reading Recovery lesson were successfully discontinued, and these successful students constituted

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[15] New York University Reading Recovery Project, Reading Recovery Project in New York City—Highlights of the School Year 1995-96, p. 2.
[16] New York University Reading Recovery Project, Reading Recovery Project in New York City—Highlights of the School Year 1996-97, p. 2.

75 percent of those who received a full program.2996[17] In the 1997-98 school year, 99 percent of the New York City children who were successfully discontinued were able to read text at a criterion-based first-grade level by the end of first grade.[18] Among a comparison group of at-risk children who did not receive the Reading Recovery program, only 38 percent were able to achieve this level.[19]

Evidence from community school districts using Reading Recovery shows similar impressive statistics but also demonstrates districts' very limited ability to provide the program to all students who could benefit from participation. Citywide, only approximately 3,000 students participated in the Reading Recovery program in the 1999-2000 school year.[20] This figure is less than 20 percent of the approximately 17,000 students in the bottom 20 percent of their first-grade classes – the students Reading Recovery is designed to assist. If additional funds were available to support the expansion of Reading Recovery, many thousands more at-risk students could be raised to grade-level reading.

In sum, approximately two-thirds of early grade students in the New York City public school system are at risk of literacy failure and its potentially devastating effect on their chances for future academic success. Despite widespread consensus that these students must have additional resources to enable them to become literate, until 1997 there were few, if any, literacy support programs generally available to them. The absence of such additional support has been a significant contributing factor to the tragically low high school graduation rates in the city's schools. Since 1997, Project Read has provided some

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[17] The 1997-98 decline in the percentage of successfully discontinued children as a percentage of children receiving any number of lessons was probably because the program had expanded and more were in their first year of implementation when success rates tend to be lower.

[18] New York University Reading Recovery Project, Reading Recovery Project in New York City—Program Evaluation Highlights for School Year 1997-98, p. 3.

[19] New York University Reading Recovery Project, Reading Recovery Project in New York City—Program Evaluation Highlights for School Year 1997-98, p. 3.

badly needed literacy support for these at-risk students, but even Project Read falls far short of meeting the dramatic need, and thus tens of thousands of students are being denied the opportunity for a sound basic education.

Moreover, support programs such as Project Read are needed, but not generally available to, students in middle school and high school, and should be provided for math as well. Community school district superintendents testified at the CFE trial that their students benefited greatly from programs such as Project Success, a literacy support program modeled after Project Read, for fifth and sixth graders, and other district-designed programs for middle grade students, but because of limited funding these programs reach only a small fraction of the students who need them.

The evidence is similar at the high school level. For example, the Brooklyn high schools superintendency instituted an intensive English support program, including professional development, reduced class sizes, double periods of instruction, and tutoring, to prepare students in for the Regents English requirements. No similar programs exist to prepare these students for the math Regents exam in spite of the fact that they are farther behind in math than English. Indeed, while the number of students passing the English Regents exam increased by roughly 60 percent between 1995 and 1999, the number of students passing the Math I Regents exam increased by only a little over 15 percent. Thus, the failure to provide Project Read to all at-risk early grade students, far from an isolated deficiency, is emblematic of a system that at every level fails to provide the extra resources students need to learn even the most basic of subjects, English and math.

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[20] Trial testimony, *CFE v. State*, Ashdown, p. 21278: 18-23.

PREKINDERGARTEN'S PROVEN BENEFITS DO NOT REACH A MAJORITY OF NEW YORK CITY CHILDREN WHO NEED THEM

Programs that expand the time at-risk students spend in school complement intensive school-day programs and also have proven success in raising student achievement. Prekindergarten prepares children to enter school.[21] Quality pre-K programs include activities that develop children's vocabulary and understanding of concepts and help children develop social skills.[22] Children who attend prekindergarten typically come to school better prepared to learn than their peers who have not. For example, children who have attended prekindergarten generally exhibit a better ability to use language and to recognize letters, are more familiar with books, and socialize better – all of which are critical to future learning.[23]

Prekindergarten is particularly important for at-risk students because, as State's expert John Murphy testified at the CFE trial, preschool programs address educational deficiencies these students would otherwise suffer.[24] Murphy's opinion is consistent with the Regents' finding that "[c]onsiderable research has documented the long-term success of quality prekindergarten education programs for disadvantaged student populations."[25] The Regents describe

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[21] After-school and Saturday programs, and summer school are other proven practices for expanding the time at-risk students spend in school. They will be discussed in the next sections.
[22] Trial testimony, *CFE v. State*, Cashin, pp. 241:5-17; 244:8-245:6.
[23] Trial testimony, *CFE v. State*, Young, p. 12868:15-25; Witness statement of William Casey, *CFE v. State*, p. 10; Witness statement of Betty Rosa, *CFE v. State*, p. 100.
[24] Trial testimony, *CFE v. State*, Murphy, p. 16651:7-19.
[25] Regents Proposal on State Aid to School Districts for School Year 1999-2000 and Beyond, p. 14.

prekindergarten as "an essential building block in raising school district capacity to meet high learning standards for all students."[26]

State education officials have acknowledged the importance of pre-K programs for many years. In 1988, the Commissioner's Task Force on the Education of Children and Youth At-Risk observed,

> Early childhood education programs receive strong affirmation from research which has demonstrated that children enrolled in prekindergarten programs, compared with children who were not, have experienced greater school success, greater likelihood of high school graduation and further education, increased employability, greater lifetime earnings and less dependence upon public assistance, and less criminal activity. Findings from the State's experimental prekindergarten program confirmed the research. The prekindergarten experience reduced by 30 percent the number of children who could have been expected to make less than normal progress.[27]

In 1992 annual report to the legislature, the State Education Department declared that "[p]rekindergarten programs are essential to ensuring that all children come to school ready to learn."[28] Two years later, the State Education Department observed that "[p]ublic school prekindergartens are operated specifically to better prepare educationally disadvantaged four-year-olds for school."[29] More recently, in their 1998-99 State Aid Proposal, the Regents stated that "research and practice confirm the importance of establishing strong literacy skills at elementary and preschool levels."[30] And, in their 2000-01 proposal, the Regents

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[26] Regents Proposal on State Aid to School Districts for School Year 1999-2000 and Beyond, p. 15.
[27] Commissioner's Task Force on the Education of Children and Youth At Risk, A Time for Assertive Action: School Strategies for Promoting the Education Success of At-Risk Students, October 1988, p. 7.
[28] New York State Education Department: The State of Learning. Report to the Governor and Legislature on the Educational Status of the State's Schools, February 1992, p. xxiii.
[29] New York State Education Department: The State of Learning. Report to the Governor and Legislature on the Educational Status of the State's Schools, February 1994, p. xxix.
[30] Regents Proposal on State Aid to School Districts for School Year 1998-99, p. 16.

observed that "[t]he societal, educational and economic benefits of quality prekindergarten education programs are well documented in the research literature for children who are at risk of academic failure."[31] Governor Pataki has likewise recognized that children need an early start to be successful students, and has said that preschool programs offer benefits that "last a lifetime."[32]

Although prekindergarten is commonly offered as a half-day program, full-day prekindergarten provides many advantages over half-day programs for at-risk children. Full-day pre-K programs provide students more time to focus on learning; enable teachers to get to know their students better, since they get to focus on one group of students in a full day instead of two half-day groups; and are more responsive to the changing needs of working parents.

In New York City there is a substantial need and demand for full-day and even extended-day prekindergarten programs. Many parents work long hours and cannot make arrangements to pick up and provide alternate care for their children in the middle of the workday. For these parents, half-day pre-K programs are not a viable option. The need for full-time prekindergarten has been recognized by the State Education Department in its implementation of legislation expanding prekindergarten: programs, they write, should be designed to "meet the needs of parents of eligible children including, but not limited to, children who require full-day programs due to a family's employment and/or pursuits of additional training or educations."[33]

Despite its importance, particularly for children from less affluent homes, even half-day prekindergarten has been offered over much of the past decade to

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[31] Regents Proposal on State Aid for School Districts for School Year 2000-01, p. 27.
[32] Governor's Office Press Release, Governor Pataki Unveils Plan for Educational Excellence, January 17, 1998, pp. 1-2.
[33] Education Commissioner's Regulations, Subpart 151-1: Universal Prekindergarten, p. 2.

only a small percentage of children in the New York City public schools, and full-day prekindergarten has been virtually nonexistent. In New York City in 1992, only 32.2 percent of the estimated four-year-old population attended a prekindergarten program. Five years later, in 1997, that figure had risen only slightly to 34.3 percent. In general, children from disadvantaged households have less access to preschool programs than their more affluent peers. Thus, in less affluent schools many students come to kindergarten without the prior experience necessary to succeed.

For many years, the state provided limited funding for prekindergarten programs through a program called State Experimental Prekindergarten. The Board combined State Experimental Prekindergarten funds with federal Title I and local tax-levy funds to provide Superstart, a half-day prekindergarten program, to approximately 12,000 of the city's 110,000 four-year-olds each year.

The Board has conducted studies of children who have participated in Superstart. These studies indicate that the Superstart participants achieved better results than control group students who did not participate in the program.[34]

In 1997, New York, like many other states, established a Universal Prekindergarten program. It requires all school districts that accept Universal Prekindergarten funds to develop a plan to ensure that a prekindergarten program will be provided by the 2002-03 school year to all four year olds residing in the district who will not be served by another state-funded pre-K program. At the time of the trial, there were estimated to be approximately 111,000 four year-olds residing within the boundaries of the New York City public school system. Subtracting the 12,000 children served by Superstart (the city's pre-existing prekindergarten program), the potential Universal Pre-

kindergarten population to be served was calculated at approximately 99,000 four-year-olds.[35] Universal Prekindergarten was to be phased in over a four-year period. By statute, in New York City 16 percent of eligible four-year-olds – approximately 15,840 – were to be served the first year of the program (1998-99), 29.9 percent the second year (1999-2000), 66 percent the third year (2000-01), and 100 percent in the fourth year (2001-02).[36]

State funding has not met the costs of providing Universal Prekindergarten to the enrolled students in any year since the statute was enacted. Its funding each year has been uncertain, with monies first withdrawn and then added back to the budget at the last minute. The inadequacy and uncertainty has created millions of dollars of additional (and unforeseen) expenses for the Board of Education—and the enormous logistical difficulties of setting up new programs in private agencies at the last minute. In addition, there are substantial unmet needs for additional space in the schools to house all prekindergarten programs in the public schools, particularly since there are not even sufficient numbers of elementary school classrooms to implement the state's reduced class size initiative.

The provision of prekindergarten programs has been inadequate at least since the late 1980s. Although the situation has improved somewhat in recent years, the need still vastly exceeds what is currently provided, and there is no guarantee the Board of Education will manage to maintain even the present insufficient amount in future years.

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[34] Trial testimony, *CFE v. State*, Casey, pp. 9995:17-9996:14.
[35] Ed. note: Data available since the CFE trial show that, in October 2000, only 41,000 students in prekindergarten programs.

After-School Programs Are Essential but Unavailable to Most At-Risk Students

Along with literacy programs such as Project Read, general after-school and extended-day programs are essential for providing "more time on task" to students at risk of failing to meet standards. In 1998 the Regents observed that research and practice indicate that additional supports such as extended day provide "very valuable opportunities to give students extra time and help in achieving high learning standards."[37] In their 2000-01 state aid proposal, the Regents reaffirmed their position that "[t]hroughout their elementary and secondary education, many students will need additional instructional time to master aspects of the curriculum."[38] Indeed, in revising the New York State graduation requirements, the Regents specifically assumed that additional supports such as after-school programs would be necessary to enable all students to meet the new higher standards.[39] Deputy Commissioner James Kadamus likewise testified at the CFE trial that extended-day programs are among the very important ways of improving student performance.[40]

Government and business leaders outside of New York have also recognized the value of using after-school and extended-day programs to provide additional instructional support to at-risk students. For example, the

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[37] Regents Proposal on State Aid to School Districts for School Year 1999-2000 and Beyond, p. 13.
[38] Regents Proposal on State Aid to School Districts for School Year 2000-2001, p. 26.
[39] State Education Department, Update on New York State's Overall Strategy for Raising Standards, April 14, 1997, p. 11.
[40] Trial testimony, *CFE v. State*, Kadamus, p. 1623:9-20.

1999 National Education Summit pledged to work to develop extended-day programs for students at risk of not meeting standards.[41]

At the CFE trial, William Casey of the Board of Education testified that academic after-school programs are an effective way of providing the additional instructional support needed by many students.[42] The State's experts agreed. Herbert Walberg testified that after-school programs could compensate for deficiencies in what he refers to as "the curriculum of the home."[43] John Murphy similarly testified that students from socioeconomically disadvantaged backgrounds require special strategies, including after-school or Saturday classes.[44] One of Murphy's principle initiatives as superintendent of the Prince Georges County, Maryland, school district was to extend the school day in his "Milliken schools," some of which remained open from 7 a.m. to 7 p.m. These schools achieved significant success in raising the performance of minority students and thereby closing the performance gap.[45]

Because of the acknowledged importance of after-school and extended-day programs, they are being implemented as part of an initiative to improve performance in a number of extremely low-performing schools in the Chancellor's District. This effort is known as the Extended Time Schools program. Extended Time Schools receive substantial additional services, including an extended-day program, an extended school year, and intensive professional development. The programs implemented in the Extended Time Schools are those that have succeeded in turning around other SURR schools.

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[41] National Education Summit, 1999 Action Statement, p. 3
[42] Trial testimony, *CFE v. State*, Casey, pp. 9953:8-9954: 6.
[43] Trial testimony, *CFE v. State*, Walberg, p. 17259:6-22.
[44] Trial testimony, *CFE v. State*, Murphy, pp. 16650:12-16651:9.
[45] Trial testimony, *CFE v. State*, Murphy, pp. 16448:2-16450:23, 16452:4-16.

In Extended Time Schools, the regular school day is 40 minutes longer for all students and school employees. Twice a week, this extra time is used for professional development. The other three times a week, it is used to provide small-group academic enrichment to students. Teachers and administrators at Extended Time Schools are paid 15 percent more than at other city schools. In addition to the extended-day program, the Chancellor's District has implemented a Saturday Family Literacy program. The Saturday program is designed to attract K-2 students and their parents, so that parents can learn the importance of reading to their children and students can have access to appropriate books and materials.

At the time of the CFE trial, the Extended Time Schools program was provided to only about a third of the 99 SURR schools then in New York City. But, as discussed above, there is widespread agreement that the extra support provided by the Extended Time Schools is critical to the success of hundreds of thousands of at-risk students, not just those in the Extended Time Schools. According to Associate Commissioner Sheila Evans-Tranumn, the programs and services offered in the Extended Time Schools could, if they were implemented, improve the performance of all SURR schools in New York City.[46] And testimony at the trial established that not just the SURR schools in New York City, but at least 400-500 other schools, are failing to meet minimal state standards.[47]

Despite the critical importance of after-school and extended-day programs to student achievement, a lack of funds means these programs are provided to only a fraction of the students who would benefit from them. A number of New York City community school district superintendents testified at the CFE trial to the success of existing after-school programs in raising achievement levels of

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[46] Trial testimony, *CFE v. State*, Evans-Tranumn, p. 1957:6-16.
[47] Trial testimony, *CFE v. State*, Fruchter, pp. 14536:12-14539:11, Sobol, pp. 931:14-932:6.

participating children, but they also stated that after-school programs are not available to the majority of students at every level who are sorely in need such additional instructional support. For example, William Casey, the former superintendent of Brooklyn's District 15, testified that while each of its 27 schools had after-school programs in the 1980s, by 1998 only about six of the schools were able to offer them.[48] After-school programs are generally funded and implemented at the district or school level. The only exception is the Project Read After-School Program for first through third graders. As discussed above, however, Project Read has been reaching barely more than half the students in those grades who are at risk of failing to meet the standards.

The testimony of several high school superintendents made clear that because of both overcrowding and a lack of funding, after-school and extended-day programs are also far from sufficient to meet the need at the high school level.[49] Severe overcrowding forces many city high schools to operate multiple shifts—and a lack of funding prohibits staffing sufficient after-school programs to serve students on every shift. Thus, many high school students are denied the clear academic benefits of these programs.

In sum, despite the widespread consensus that extended-day and after-school programs are critical to providing the many hundreds of thousands of at-risk students in New York City the opportunity to meet the new standards and obtain a high school diploma, it is quite evident that the availability of these valuable programs falls far short of the need.

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[48] Witness statement of William Casey, *CFE v. State*, p. 66.
[49] Trial testimony, *CFE v. State*, DeStefano, pp. 5387:25-5388:10, Cashin, pp. 242:2-243:7; Witness statement of Lester Young, *CFE v. State*, p. 116.

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SUMMER SCHOOL'S VITAL INSTRUCTIONAL TIME CANNOT BE PROVIDED TO HUNDREDS OF THOUSANDS OF AT-RISK STUDENTS

Summer school can be an important source of the additional instructional support that many students need to meet standards. Summer school by definition adds to the quantity of time students spend in the classroom. In addition, Board of Education summer school class sizes are significantly smaller than during the regular school year, allowing teachers to focus more directly on the specific needs of at-risk children. Summer school also gives students an opportunity to continue to use and strengthen the skills they have learned during the school year. This can be especially important for English language learners, who, without summer school, may not have significant exposure to English during the summer months. Finally, summer school provides children with a place to go during the day and thus helps them to avoid negative neighborhood influences. While children of affluent families may vacation or go away to camp in the summer, these opportunities are often not available to the many at-risk children who come from families of limited means.

The Regents have long recognized the importance of summer school. In "A New Compact for Learning," they recommended that instructional time be increased by, among other things, offering summer school programs.[50] In their 1999-2000 State Aid Proposal, the Regents reviewed the recent educational research and found that summer school can help in "stemming achievement loss during the summer months, especially among disadvantaged, high-risk students."[51] In particular, the Regents relied on findings that during the summer

[50]State Education Department, A New Compact for Learning, p.11.
[51]Regents Proposal on State Aid to School Districts for School Year 1999-2000 and Beyond, p. 13.

periods when school is not in session, cognitive growth among less affluent students tends to diminish or remain stagnant, while the cognitive growth of affluent students continues to increase.[52] The Regents have thus warned, "achievement gaps between children of disadvantaged backgrounds and advantaged backgrounds will increase over time without additional intervention."[53] Because of its importance, in their 2000-01 State Aid Proposal the Regents again recommended that the state fund summer school programs.

Other education experts who testified at the CFE trial agreed that summer school could be an important means of improving academic performance. Herbert Walberg testified that the quantity of time students spend learning is crucial to education, and summer school can therefore improve performance because it increases instructional time.[54] Monsignor Guy Puglisi, the Superintendent of Schools of the Diocese of Brooklyn and Queens, testified that the Brooklyn and Queens Catholic schools operate a summer program for their students both "to improve their academic ability" and "[b]ecause there's a need for the children to do something during the summer."[55]

Despite the recognized value of summer school, especially for the great number of at-risk students in the city's public schools, for years summer school was almost entirely nonexistent. Only in the last few years has the Board of Education been able to provide summer school to any significant numbers of students. But even now summer school is only being provided to the neediest of the needy and not to hundreds of thousands more students who are at risk of failing to meet the standards without additional instructional time.

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[52]Regents Proposal on State Aid to School Districts for School Year 1999-2000 and Beyond, p. 13.
[53]Ibid.
[54] Trial testimony, *CFE v. State*, Walberg, pp. 17258:9-17259:22.
[55] Trial testimony, *CFE v. State*, Puglisi, pp. 19421:25-19422:5.

In the early 1990s the Board of Education funded only a small summer school program limited to students in grades 3 and 8 who scored at or below the 10th to 15th percentile on standardized reading and math tests, and for whom summer school was a condition of promotion. Even this limited program was discontinued, however, during the fiscal crisis of the mid-1990s.

Despite the Regents' urging, even now New York City schools do not receive state funding for summer school programs (except on behalf of certain severely handicapped students for whom summer school is mandated). Nevertheless, it is the Board's policy to provide summer school, to the extent resources permit, to all students at risk of not meeting the standards. Based on the results of the 1999 ELA examination, for example, the Board estimated conservatively that approximately 461,500 New York City elementary and middle school students were at risk of failing to meet the new requirements. All of such students could benefit from summer school to help them meet the standards, but the Board has only enough funding to provide summer school to the neediest of these at-risk students.

In 1997, the city's public schools provided summer school to only about 50,000-55,000 K-8 students. The following year the Board estimated that there were 220,345 K-8 at-risk students, based on the very conservative criteria of students who were identified by their teachers as at "very high" or "high" risk of not attaining literacy by grade 3, who scored in the bottom quartile on the CTB reading test, or who were exempted from the test because of limited English proficiency. Approximately 166,500 of these students had not been served in the summer program. In fact, in 1997 fully two-thirds of the identified "high risk" students in grades K-2 did not attend summer school.

In 1998 the K-8 summer program was expanded but was still limited to about 105,000 students. That year almost half the identified "high risk" students in grades K-2 did not participate in summer school.

In 1999, because the Board could afford to provide summer school only to a fraction of the elementary and middle school students who would have benefited from it, the criteria used to select students were again focused on the absolute most poorly performing students. That year summer school was mandated for 3rd, 6th, and 8th grade students who had not met the criteria for promotion. These criteria, in addition to being limited to only three grades, were also much lower than the Level 1 and 2 scoring criteria the state has designed to identify students at risk of failing to meet the standards.

The 1999 summer program was funded with $74.4 million. This funding paid for summer school for all mandated pupils in grades 3, 6, 8, and all grade 4 students who scored at Level 1 on the 1999 ELA test. The Board of Education anticipated that serving the mandated students would require $55.8 million of the total funding. The remaining $18.6 million was to be used to provide Early Grade Literacy summer programs for at-risk pupils in K-2. Remaining funds, if any, were earmarked for programs for at-risk pupils in grades 3-7. The 1999 summer school program ended up serving about 120,000 K-8 students, barely more than a quarter of the estimated need.

By design, in 1999 as in the past, summer school classes were kept small – a maximum of ten students per class for mandated grade 3, 6, and 8 students and 20 per class for non-mandated students. Although more students could have been served had class sizes been increased, the smaller classes were designed to ensure these at-risk students received the individual instruction they need to help them meet the standards.

The Board of Education also provides some summer classes to high school students. These summer programs can be an important part of a high school academic program because they enable students who miss or fail requirements during the regular school year to catch up, and also give low-performing students additional time to get on track. Between about 100,000 to 110,000 high school students have been attending classes each summer for the past several years to make up for courses failed during the regular academic year. These numbers are expected to increase in the future both because the new promotion policy requires high school students to complete minimum credit requirements to advance, and because of the introduction of new, more stringent, high school graduation requirements. Were resources available, the Board of Education would offer high school students summer instructional support —not just the opportunity to re-take failed courses.[56] For example, English language learners would receive additional help in improving their English skills. At present, the Board of Education does not provide such programs.

In total, despite the evidence from the ELA exam results that approximately two-thirds of city's public school students are at risk of failing to meet the standards, in 1999 the elementary, middle and high school summer programs together served only about 21 percent of total enrollment, less than one-third of the need. Testimony from a number of community school district superintendents confirmed that, although the availability of summer school has improved in recent years, substantial numbers of at-risk students are still denied this crucial opportunity to increase their learning time.[57]

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[56]Witness statement of William Casey, *CFE v. State*, p. 41.
[57]Trial testimony, CFE v. State, Casey, pp.9946:6-20; Rosa, pp. 12386:2-13, 12387:15-25; Witness statement of Lester Young, *CFE v. State*, p. 121

In sum, despite the general consensus that summer school can be an important means of providing the increased instructional time that New York City's hundreds of thousands of at-risk students need, the availability of summer programs since the late 1980s has been greatly limited. Only in the last few years has any significant portion of the students who badly need these programs been given the opportunity to attend them. And even now the Board of Education is able to make summer school available only to very most needy students, leaving vast numbers of at-risk students unserved, with potentially devastating consequences for their academic careers.

CONCLUSION

At-risk students who participate in intensive school-day programs, like Reading Recovery, and prekindergarten, after-school, and summer school programs that afford them "more time on task" reap clear benefits. Research and student achievement data show that many such students reach or move closer to grade-level work with these additional instructional supports. With such supports, many students can also avoid referral to special education. And yet, hundreds of thousands of students in New York City and many more throughout New York State are denied the important benefits of such programs solely because their schools lack the resources to provide them.

There can no longer be any doubt that money matters in education. Funding provided for proven practices, like affording at-risk students more time on task, can be shown to translate directly into student learning. Inadequate funding denies students access to educational strategies proven to help them succeed and jeopardizes their right to the opportunity for a sound basic education.

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